

Appl. No. : 10/628,212  
Filed : July 28, 2003

COMMENTS

Claims 1-9 and 11-13 are now pending in the present application, Claim 10 having been canceled without prejudice or disclaimer, Claims 1, 11, and 12 having been amended, and new Claim 13 having been added. The claims set forth above include marking to show the changes made by way of the present amendment, deletions being in ~~strikeout~~ and additions being underlined.

In response to the Office Action mailed August 10, 2004, Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

Spitzer Does Not Anticipate Claims 1, 3, 8, and 9

Claims 1, 3, 8, and 9 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,349,001 issued to Spitzer. Applicants respectfully traverse the present rejection. However, in order to expedite prosecution of the present application, Applicants have canceled Claim 10 and added the subject matter thereof into Claim 1. Because Claim 10 was not rejected as being anticipated by Spitzer, the present rejection is moot. Additionally, Applicants submit that Claims 3, 8, and 9 also define over the Spitzer reference, not only because they depend from Claim 1, but also on their own merit. However, Applicants expressly reserve the right to further prosecute the original version of Claims 1-10 through continuation practice.

Spitzer Does Not Make Claims 10-12 Obvious

Claims 10-12 stand rejected under 35 U.S.C. § 103(a) as being obvious over Spitzer. Applicants respectfully traverse the present rejection. Additionally, as noted above, Applicants wish to note that Claim 10 has been canceled and the subject matter thereof has been added into Claim 1.

Spitzer teaches eyeglasses having a microphone and additional electronics disposed in the eyeglasses. However, as noted in the Office Action at Page 3, Spitzer fails to teach any device for preventing wind or breath from a user from affecting the microphone. Rather, the Spitzer reference fails to contemplate any device for protecting the microphone in any manner.

It was the Examiner's position that it was commonly known to those of ordinary skill in the art to place a wind sock over a microphone for the purpose of reducing the effect of wind noise on a microphone. Thus, the Examiner concluded that it would have been obvious

at the time of the invention was made to a person having ordinary skill in the art to modify the microphone in the Spitzer eyeglass frame by forming a wind sock. However, even if one were to provide a wind sock on the eyeglass of Spitzer, it would not result in the eyeglasses presently recited in Claims 1 and 11. For example, no obvious combination of the Spitzer reference and prior art wind socks would result in an eyeglass having a wind sock shaped complimentarily to the frame or ear stems of an eyeglass.

In contrast, Claim 1 now recites, among other recitations, “at least one microphone supported by the frame, the microphone being arranged to face towards a head of a wearer of the eyeglass frame; a wind sock disposed over the at least one microphone, the wind sock having a shape complimentary to a shape of an outer surface of the frame surrounding the microphone.” Similarly, Claim 11 now recites, among other recitations, “at least one microphone supported by the bridge, the microphone being arranged to face away from a wearer of the eyeglass; and a wind sock disposed over the microphone, wherein the wind sock includes an outer surface shaped complimentarily to the bridge.”

For example, as illustrated in the non-limiting embodiment of Figure 5B, a wind sock 81 is disposed over a microphone 75 so as to protect it from wind. This can be particularly helpful during athletic activities during which a user can experience significant wind against their face, such as, for example, but without limitation, bicycling. Additionally, as shown in Figure 5B, the wind sock 81 is shaped complimentarily to the shape of the bridge portion 52A''. As noted in paragraph 0137 of the present specification,

Configuring the bridge portion 52A'' as such is particularly advantageous because the bridge portion of an eyeglass is typically somewhat bulbous. A wind sock can be shaped complimentarily to the bridge portion 52A''. Thus, the sock 81 can be made so as to appear to be part of a normal bridge portion of an eyeglass.

Further, by providing the wind sock with a shape complimentary to the surrounding part of the eyeglass frame, a user is less likely to hit the wind sock during use. For example, the most commonly used prior art wind socks are of a type that slip over the end of a hand-held microphone or over an end of a microphone boom. Such a wind sock on an eyeglass can be more likely to be hit accidentally by a user during use. However, by providing the wind sock with a shape complimentary of the surrounding surface of the eyeglass, a user is less likely to inadvertently impact the wind sock and thus create an undesired noise.

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Thus, Applicants submit that Claims 1 and 11 clearly and nonobviously define over the Spitzer reference. Additionally, Applicants submit that Claims 2-9 and 12 also define over the Spitzer reference, not only because they depend from Claims 1 or 11, but also on their own merit.

Amendments To Specification Address Noted Informalities

The foregoing amendments to the specification correct minor informalities recently noted by the Applicants. In particular, the amendments merely change the reference numeral 52A' to 52A''. The amendments do not add new matter. Thus, entry of these amendments is respectfully requested.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

Respectfully submitted,

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